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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/732,651	12/06/2000	Miguel Ortiz Gimenez	98-1329	3047

7590 09/12/2003

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EXAMINER

DONOVAN, LINCOLN D

ART UNIT PAPER NUMBER

2832

DATE MAILED: 09/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/732,651

Applicant(s)

GIMENEZ ET AL.

Examiner

Lincoln Donovan

Art Unit

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-- Th MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 24 June 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 9-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1 and 6 is/are rejected.
- 7) ☐ Claim(s) 2-5, 7 and 8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5, 8.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 9-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claimed inventions, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 10.

Applicant's election with traverse of group I, claims 1-10, in Paper No. 10 is acknowledged. The traversal is on the ground(s) that both group I and group II are drawn to a test switch circuit and housing structure therefore and should be searched together. This is not found persuasive because group I is drawn to the operation of elements within a housing and group II is drawn to the housing itself. Applicant did not elect either of groups III and IV and acknowledges that they are distinct from groups I and II.

The requirement is still deemed proper and is therefore made FINAL.

### ***Specification***

The disclosure is objected to because of the following informalities: on page 3, lines 10-11, applicant should delete the first occurrence of "dielectric test switch."

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nemir et al. [US 6,262,871] in view of Whipple et al. [US 6,392,513].

Regarding claim 1, Nemir et al. disclose an earth leakage detection device [figure 2] for detecting earth leakage in an electrical distribution circuit and for actuating a circuit breaker [32, 33] when earth leakage is detected comprising:

- an earth leakage detection circuit [30] for detecting earth leakage in the electrical distribution circuit;
- an electrically conductive strap [67, 68] arranged to conduct electrical current to the distribution circuit and provide power for the earth leakage detection circuit [44, 46, column 10, lines 35-37]; and
- a dielectric test switch [50] arranged between the conductive strap and the detection circuit wherein manipulation of the switch causes the switch to stop the flow of current from the conductive strap to the earth leakage detection circuit during the testing [column 11, lines 12-38].

Nemir et al. disclose the instant claimed invention except for the dielectric test switch being a button disposed in a housing.

Whipple et al. disclose a circuit breaker having a housing [figure 1] with a dielectric/ground fault test button [9] disposed thereon.

It would have been obvious to a person having ordinary skill in the art at the time invention was made to mount the detection device of Nemir et al. within a housing, as

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suggested by Whipple et al., for the purpose of facilitating mounting within a load center and protecting the circuit.

It would have been obvious to a person having ordinary skill in the art at the time invention was made to include a button for the switch and mount the button on the housing of Nemir et al., as modified, as suggested by Whipple et al. to enable a user to test the circuit and protect the user from shock hazard.

Regarding claim 6, Whipple et al. further disclose the housing including a handle [7] to control the breaker.

It would have been obvious to a person having ordinary skill in the art at the time invention was made to further include an operating handle on the breaker of Nemir et al., as modified, as suggested by Whipple et al., for the purpose of enabling the breaker to be manually tripped during a test cycle.

### ***Allowable Subject Matter***

Claims 2-5 and 7-8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lincoln Donovan whose telephone number is 703 308-3111. The examiner can normally be reached on M-F 8:30-5:00.

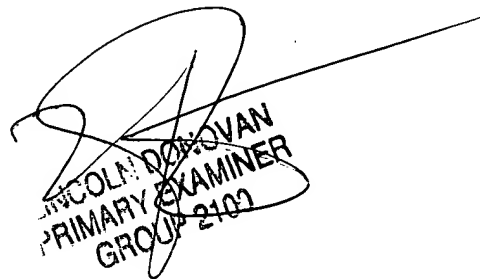
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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1920.

Idd  
August 14, 2003

  
LINCOLN DONOVAN  
PRIMARY EXAMINER  
GROUP 2100